THE HON'BLE Mr. JUSTICE N.V. RAMANA

WRIT PETITION No.22411 of 1996

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Dated: September 27, 2005

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Between:

Nb. Ataullah Khan,

S/o. late Nb. Hashmat Jah Bahadur,

aged about 48 years,

1-7-780/A, Ashok Nagar,

Hyderabad.

… Petitioner

And

Asst. Commissioner of Wealth-tax,

Circle-1(3), Aayakar Bhavan,

Basheerbagh, Hyderabad, and two others.

… Respondents

Order:

This writ petition is filed seeking writ of Certiorari quashing the Notice bearing GIR

No.A-730 dated 31-05-1996 for the wealth-tax assessment year 1993-94 and 1994-95 issued by Respondent No.1 under Section 17 of the Wealth-tax Act, 1957, as illegal and without jurisdiction.

2. Petitioner submits that Nawab Sir Mir Osman Ali Khan Bahadur Nizam the VII of Hyderabad, created HEH the Nizam's Jewellery Trust, for the benefit of his family members, out of his personal jewellery and the same was certified by the Governor General of India to be the private property of the Nizam by an indenture dated 29-03-1951.

The Settlor specified the names of the family members who are entitled to the benefits in the third schedule and their respective shares in the Deed of Trust. It is the case of the petitioner that his father Nb. Hashmat Jah Bahadur was a beneficiary in HEH the Nizam's Jewellery and under Sub-clause (e) of Clause 9 of the Deed of Trust, his father had life interest with entitlement to receive income on the corpus of the Trust Fund earmarked for his benefit. Petitioner's father died on 02-01-1988. After the death of his father, petitioner claims that he has a right to receive his proportionate share in the compensation awarded by the Hon'ble Umpire. It is the main grievance of the petitioner that Respondent No.1 issued notice under Section 17 of the Act on the ground that he has reason to believe that the wealth chargeable to tax relating to the interest of the petitioner herein in HEH the Nizam's Jewellery Trust had escaped assessment.

3. Heard the learned counsel for the petitioner as well as the learned counsel appearing on behalf of the respondents.

4. Writ petition against a show cause notice is not maintainable. However, during the course of hearing, learned counsel for the petitioner requested this Court to give liberty to the petitioner to submit his explanation to the impugned notice. The learned counsel for the respondent expressed his 'no objection' to the same.

5. Having regard to the facts and circumstances and in view of the fact that the subject matter relates to the year 1996, I deem it appropriate to dispose of the writ petition granting liberty to the petitioner to submit his explanation to the impugned notice. Thereafter, the respondents are directed to consider the explanation submitted by the petitioner and pass appropriate orders on the same, in accordance with law.

6. The writ petition is accordingly disposed of. No costs.

N.V. RAMANA, J.

September 27, 2005

MRR